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असाधारण

EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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हस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि वह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on the 15th December, 1971:—

BILL No. 168 OF 1971

A Bill to provide for the levy of a surcharge on income-tax payable in advance by companies during the financial year 1971-72 under the Income-tax Act, 1961.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Companies (Surcharge on Income-tax) Act, 1971. Short title.

2. In this Act, unless the context otherwise requires,—

43 of 1961.

(a) "Income-tax Act" means the Income-tax Act, 1961;

(b) all words and expressions used in this Act shall have the meanings respectively assigned to them in the Income-tax Act. Definitions.

3. (1) Every company which is liable to pay advance tax under section 210 or section 212 of the Income-tax Act during the financial year commencing on the 1st day of April, 1971, shall, in addition to the advance tax so payable, pay to the credit of the Central Government on or before the 15th day of March, 1972, a further sum, by way of surcharge on income-tax, calculated at the rate of two and one-half per cent. of the amount specified in sub-section (2). Levy of surcharge on income-tax payable by companies during 1971-72.

(2) The amount referred to in sub-section (1) shall be—

(i) in a case where advance tax is required to be paid by an

order under sub-section (1) or sub-section (3) of section 210 of the Income-tax Act, the amount specified in such order;

(ii) in a case where advance tax is payable under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) or section 212 of the Income-tax Act on the basis of the estimate furnished by the company, the amount of advance tax so payable.

(3) Any sum required to be paid by a company as surcharge on income-tax under sub-section (1) shall be paid without any notice of demand to the company in that behalf from the Income-tax Officer.

**Mode of
recovery.**

4. If the sum required to be paid under sub-section (1) of section 3 is not paid on or before the 15th day of March, 1972, the company shall be deemed to be an assessee in default and—

(a) the company shall be liable to pay simple interest at nine per cent. per annum from the 16th day of March, 1972;

(b) all the provisions of sections 221 to 227, section 229, section 231 and section 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were the provisions of this Act and referred to surcharge on income-tax and sums imposed by way of penalty and interest under this Act instead of to income-tax and sums imposed by way of penalty and interest under that Act and as if references to sub-section (2) of section 220 were references to clause (a) of this section.

**Credit for
Surcharge**

5. Any sum paid by or recovered from a company as surcharge on income-tax in pursuance of this Act shall be treated as a payment of ~~tax~~ under the Income-tax Act in respect of the income of the period which would be the previous year for the assessment year commencing on the 1st day of April, 1972, and credit therefor shall be given to the company for the purposes of assessment under section 140A, section 141A, section 143 or section 144 of the Income-tax Act.

STATEMENT OF OBJECTS AND REASONS

As a measure for mobilising resources for meeting the additional expenditure necessitated by the present emergency, it is proposed to levy a surcharge at the rate of 2.5 per cent. of income-tax payable in advance by all companies during the current financial year under the Income-tax Act, 1961. The companies will be required to pay the amount of the surcharge due from them on their own motion, without the requirement of the service of any notice of demand by the Income-tax Officer, on or before the 15th March, 1972. The surcharge so paid will be treated as a payment of income-tax in respect of the income assessable for the assessment year 1972-73 and credit therefor will be given for the purposes of self-assessment under section 140A, provisional assessment under section 141A and regular assessment for that assessment year. In case of failure to pay the surcharge, the company will be deemed to be an assessee in default and will be liable to pay simple interest at the rate of nine per cent. per annum. The provisions of the Income-tax Act, 1961, relating to imposition of penalty for default in payment of tax and the recovery of arrears will apply with the necessary modifications.

The Bill seeks to achieve the above objects.

NEW DELHI;

The 13th December, 1971.

Y. B. CHAVAN.

BILL No. 167 OF 1971

A Bill further to amend the Indian Tariff Act, 1934.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1971.

(2) It shall come into force on the 1st day of January, 1972.

Short
title and
com-
mence-
ment.

32 of 1934

2. In the First Schedule to the Indian Tariff Act, 1934,—

(a) in Items Nos. 28 (35), 28 (36), 28 (37), 28 (38), 28 (39) and 28 (40), in the last column headed "Duration of protective rates of duty", for the figures "1971", wherever they occur, the figures "1972" shall be substituted;

Amend-
ment of
First
Schedule.

(b) in Item No. 66 (a),—

(i) in the third column headed "Nature of duty", for the word "Protective", the word "Revenue" shall be substituted;

(ii) in the fourth column headed "Standard rate of duty", for the figures "27½", the figures "40" shall be substituted;

(iii) in the last column headed "Duration of protective rates of duty", the entry "December 31st, 1971" shall be omitted;

(c) in Item No. 66(1),—

(i) in the third column headed "Nature of duty", for the word "Protective", the word "Revenue" shall be substituted;

(ii) in the fourth column headed "Standard rate of duty", for the figures "20", the figures "40" shall be substituted;

(iii) in the last column headed "Duration of protective rates of duty", the entry "December 31st, 1971" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the First Schedule to the Indian Tariff Act, 1934 (32 of 1934), in order to continue or to discontinue the tariff protection on certain industries, on the advice of the Tariff Commission.

2. The following modifications are proposed in respect of intermediates for the dyestuff industry:

Item No. of Tariff	Proposal
28(35), 28(36), 28(37), 28(38), 28(39) and 28(40)	Continuance of protection to the 53 dye-intermediates, covered under these items, at the existing rates of protective duty up to the 31st December, 1972.

3. In respect of products of the aluminium industry falling within Item Nos. 66(a) and 66(1), the Bill seeks to withdraw the protective rates of duty and to levy revenue rates of duty with effect from the 1st January, 1972. The statutory rates of revenue duty are being fixed at 40 per cent *ad valorem*, which is applicable to other non-ferrous metals and raw materials. The effective levels of duty will, however, be maintained for the present at the existing rates, through exemptions under the Customs Act, 1962.

NEW DELHI;

The 10th December, 1971.

L. N. MISHRA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 52(1)-Tar/71, dated the 11th December, 1971 from Shri Lalit Narayan Mishra, Minister of Foreign Trade to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Indian Tariff (Amendment) Bill, 1971, recommends under article 117(1) of the Constitution of India, the introduction of the Bill in the current session of the Lok Sabha.

BILL No. 166 OF 1971

A Bill to amend the Personal Injuries (Emergency Provisions) Act, 1962.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Personal Injuries (Emergency Provisions) Amendment Act, 1971. Short title.

2. In section 2 of the Personal Injuries (Emergency Provisions) Act, 1962 (hereinafter referred to as the principal Act), for clause (5), the following clause shall be substituted, namely:— Amendment of section 2.

‘(5) “period of emergency” means, in relation to the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution,—

(i) on the 26th day of October, 1962, the period beginning with the 26th day of October, 1962, and ending with the 10th day of January, 1968, that is to say, the date on which the said Emergency was declared, by notification of the Government of India in the Ministry of Home Affairs, No. G.S.R. 93, dated the 10th January, 1968, to have come to an end;

(ii) on the 3rd day of December, 1971, the period beginning with the 3rd day of December, 1971, and ending with such date as the Central Government may, by notification in the Official Gazette, declare to be the date on which the emergency shall come to an end;’.

Amendment of section 3. 3. In section 3 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

“Provided that different Schemes may be made in relation to different periods of emergency.”.

Removal of doubts. 4. For the avoidance of doubts, it is hereby declared that every Scheme made under the Personal Injuries (Emergency Provisions) Act, 1962, 59 of 1962, providing for relief in respect of personal injuries or personal service injuries sustained during the period of emergency beginning with the 26th day of October, 1962, and ending with the 10th day of January, 1968, shall continue to be in force and every person entitled to relief under the said Scheme shall continue to receive such relief in accordance with the provisions of such Scheme.

STATEMENT OF OBJECTS AND REASONS

The Personal Injuries (Emergency Provisions) Act, 1962 was enacted during the last emergency in order to provide for grant of relief in respect of certain personal injuries (i.e. war injuries) sustained in the course of hostilities during the period of that emergency. The Bill seeks to extend the Act to the present period of emergency.

2. The Bill seeks to empower the Central Government to formulate different schemes for grant of relief in respect of—

(a) Personal injuries sustained during the present emergency by gainfully occupied persons and by persons of such other classes as may be specified; and

(b) Personal service injuries sustained during the present emergency by Civil Defence Volunteers.

Provision has also been made in the Bill to ensure that the claims allowed during the last emergency are not affected by the amendments to the Act.

NEW DELHI;

The 10th December, 1971.

R. K. KHADILKAR.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. S 39011/2/71-Fac, dated the 12th December, 1971 from Shri R. K. Khadilkar, Minister of Labour and Rehabilitation to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to make provision for the grant of relief in respect of certain personal injuries sustained during the period of the emergency, has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

FINANCIAL MEMORANDUM

The Bill seeks to extend the Personal Injuries (Emergency Provisions) Act, 1962, to the present period of emergency. The Bill also empowers the Central Government to frame different Schemes for different periods of emergency by proposing an amendment to sub-section (1) of section 3 of the Act, to provide for grant of relief in respect of personal injuries (i.e. war injuries) or personal service injuries sustained during the period of the present emergency. The Scheme to be framed may authorise the Central Government or any authority authorised by it to make payments under the Scheme in such circumstances and subject to such conditions as may be prescribed in the Scheme. Section 6 of the Act relates to medical attention in dispensaries and hospitals of persons sustaining personal injuries during the period of the present emergency. The relief proposed will involve expenditure from the Consolidated Fund of India the extent of which cannot be estimated at present.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill proposes to amend sub-section (1) of section 3 of the Personal Injuries (Emergency Provisions) Act, 1962, to empower the Central Government to frame different schemes for different periods of emergency, providing for the grant of relief in respect of personal injuries or personal service injuries sustained during the period of the present emergency. The scheme may also empower the Central Government to make regulations for giving effect to the purposes of the scheme.

2. The matters in respect of which provisions can be made in a scheme or a regulation are generally matters of procedure or detail. The delegation of powers is, therefore, of a normal character.

BILL NO. 165 OF 1971

A Bill further to amend the Personal Injuries (Compensation Insurance) Act, 1963

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Personal Injuries (Compensation Insurance) Amendment Act, 1971. Short title.

37 of 1963. 2. In section 2 of the Personal Injuries (Compensation Insurance) Act, 1963 (hereinafter referred to as the principal Act), for clause (f), the following clause shall be substituted, namely:— Amendment of section

‘(f) “period of emergency” means, in relation to the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution,—

(i) on the 26th day of October, 1962, the period beginning with the 26th day of October, 1962, and ending with the 10th day of January, 1968, that is to say, the date on which the said Emergency was declared, by notification of the Government of India in the Ministry of Home Affairs, No. G.S.R. 93, dated the 10th January, 1968, to have come to an end;

(ii) on the 3rd day of December, 1971, the period beginning with the 3rd day of December, 1971, and ending with such date as the Central Government may, by notification in the Official Gazette, declare to be the date on which the said emergency shall come to an end;’.

Amend-
ment of
section
3.

3. In section 3 of the principal Act, in clause (a), for the words and figures “Defence of India Rules, 1962;”, the words and figures “Defence of India Rules, 1962, or under rule 119 of the Defence of India Rules, 1971;” shall be substituted.

Amend-
ment of
section 8.

4. In section 8 of the principal Act, to sub-section (1), the following, proviso shall be added, namely:—

“Provided that different Schemes shall be put into operation in relation to different periods of emergency.”.

Removal
of
doubts

5. For the avoidance of doubts, it is hereby declared that every Scheme made under the Personal Injuries (Compensation Insurance) Act, 1963, providing for compensation in respect of personal injuries sustained during the period of emergency beginning with the 26th day of October, 1962, and ending with the 10th day of January, 1968, shall continue to be in force and every person entitled to compensation under the said Scheme shall continue to receive such compensation in accordance with the provisions of such Scheme.

37 of 1963.

STATEMENT OF OBJECTS AND REASONS

The Personal Injuries (Compensation Insurance) Act, 1963, was enacted during the last emergency in order to provide for payment of compensation to certain classes of workers like workers in factories, mines, plantations and major ports for personal injuries (i.e. war injuries) in addition to the relief provided under the Personal Injuries (Emergency Provisions) Act, 1962, so that the total benefit received will be about the same as under the Workmen's Compensation Act, 1923. The liability to pay compensation under the Workmen's Compensation Act, 1923, and the Employees' State Insurance Act, 1948, ceases to exist in the case of such injuries and the workmen covered by these Acts draw relief under the Personal Injuries (Emergency Provisions) Act, 1962, supplemented by compensation under the Personal Injuries (Compensation Insurance) Act, 1963.

2. The Personal Injuries (Compensation Insurance) Act, 1963,—

(i) imposes on the employers of workmen the liability to pay compensation in respect of personal injuries to the extent the amount of compensation payable under the Workmen's Compensation Act, 1923, exceeds the amount of relief payable under the Personal Injuries (Emergency Provisions) Act, 1962; and

(ii) provides for a scheme of insurance of the liability by the employers with Government based on premium rates which can be varied with reference to the actual nature or extent of the liability as it may exist from time to time.

3. The Personal Injuries (Compensation Insurance) Act, 1963, is still in force but is related to the last period of emergency. The Bill seeks to extend the Act to the present emergency. It empowers the Central Government to formulate a different scheme to cover the claims during the present emergency. Provision has also been made in the Bill to ensure that the validity of the claims allowed during the last emergency is not affected by the amendments to the Act.

NEW DELHI;

R. K. KHADILKAR.

The 10th December, 1971.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 39011/2/71-Fac., dated the 12th December, 1971 from Shri R. K. Khadilkar, Minister of Labour and Rehabilitation to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill to impose on employers a liability to pay compensation to workmen sustaining personal injuries and to provide for the insurance of employers against such liability, has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

FINANCIAL MEMORANDUM

The Bill seeks to extend the Personal Injuries (Compensation Insurance) Act, 1963 to the present period of emergency. Section 13 of the Act provides that a Personal Injuries (Compensation Insurance) Fund will be established and that an amount not exceeding the amount of the premiums collected under the scheme of insurance will be paid into that Fund after due appropriation made by Parliament by Law. The Fund will be utilised to pay sums required for the payment of compensation to workmen for personal injuries, for the remuneration or expenses of agents employed for operating the insurance scheme and for payment of the cost of administering the scheme. The extent of liability to pay compensation will depend upon the number of casualties amongst the workmen covered by the Bill. It is not possible to make any worthwhile estimate of the likely number of casualties.

2. The scheme of insurance, as a whole, provides for self-adjusting income on revenue and expenditure basis. It is, therefore, expected that the scheme may not involve any net burden on the Consolidated Fund of India over and above the obligation to transfer to the Insurance Fund from out of the Consolidated Fund the premiums received under the scheme. The Central Government will, of course, make advances to the Fund when the amount standing at the credit of the Fund at any point of time, is not adequate to discharge the purposes of the Fund. This advance will be recouped from the Fund in due course.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill seeks to extend the Personal Injuries (Compensation Insurance) Act, 1963 to the present period of emergency. Section 8 of the Personal Injuries (Compensation Insurance) Act, 1963, empowers the Central Government to make and put into operation a scheme to be called Personal Injuries (Compensation Insurance) Scheme whereby provision is made for the insurance of employers against liabilities arising as a result of personal injuries, and other connected matters. The Bill proposes to amend sub-section (1) of section 8 of the Act to empower the Central Government to frame different Schemes for different periods of emergency. Further section 22 of the Act provides for framing of rules by the Central Government to carry into effect the provisions of the Act.

2. The matters in respect of which provision can be made in a scheme or rules are generally matters of procedure or detail. The delegation of powers is, therefore, of a normal character.

BILL NO. 164 OF 1971

A Bill to provide for the establishment and procedure of Prize Courts and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Naval and Aircraft Prize Act, 1971.

2. In this Act, unless the context otherwise requires,—

(a) “aircraft” has the meaning assigned to it in clause (ii) of section 4 of the Air Force Act, 1950;

(b) “aircraft papers” includes all books, passes, charter parties, bills of lading, customs receipts, manifests, certificates, licences, lists, tickets, notes, letters and other documents and writings delivered up or found on board a captured aircraft;

(c) “Armed Forces” means the Army, Navy and Air Force or any part of any one or more of them and includes any other armed force in the service of, or employed with, the Army, Navy or Air Force during hostilities;

Short
title.
Defini-
tions.

(d) "goods" includes all such things as may be subject to adjudication as prize, but in the case of a naval prize does not include any aircraft or boat unless the aircraft or boat is a part of the cargo of a ship;

(e) "Prize Court" means a prize court established under section 3;

(f) "Indian citizen" includes a company registered in India and having its principal place of business in India;

(g) "military aircraft" means any aircraft belonging to the Armed Forces and includes any armed aircraft in the service of the Armed Forces and any other aircraft used as a transport or auxiliary or in any other way for the purpose of prosecuting or aiding hostilities;

(h) "prize" means anything which, subject to this Act and the rules made thereunder, may be subjected to adjudication and includes a ship or an aircraft and goods carried therein, irrespective of whether the ship is captured at sea or seized in port or whether the aircraft is on or over land or sea at the time of capture or seizure;

(i) "ship" includes a vessel and a boat with the tackle, furniture and apparel of the ship, vessel or boat.

(j) "ship-of-war" means any ship belonging to the Armed Forces and includes any armed ship in the service of the Armed Forces and any other ship used as transport or auxiliary or in any other way for the purpose of prosecuting or aiding hostilities;

(k) "ship papers" includes all books, passes, sea briefs, charter parties, bills of lading, customs receipts, manifests, certificates, licences, lists, tickets, notes, letters and other documents and writings delivered up or found on board a ship captured at sea or seized in port.

Establishment of Prize Courts.

3. (1) The Central Government may, by notification in the Official Gazette, constitute from time to time as many Prize Courts as the Central Government may determine to exercise the powers and discharge the functions conferred on a Prize Court by this Act and every such Prize Court shall exercise jurisdiction within the local limits of such area or areas as may be specified by the Central Government in the said notification.

(2) Every Prize Court shall consist of such one or more than one member as the Central Government may from time to time deem it necessary to appoint.

(3) A person shall not be qualified for appointment as a member of a Prize Court unless he is a citizen of India and has been or is qualified to be appointed as a Judge of a High Court.

(4) Subject to the provisions of section 18, the conditions of service of a member of a Prize Court shall be such as the Central Government may by order determine.

Juris-
diction
of prize
Courts.
in prize
cases.

4. (1) Notwithstanding anything contained in any other law for the time being in force, every Prize Court shall have exclusive jurisdiction in respect of each prize and each proceeding for the condemnation of property as prize, whether such prize is taken before or after the commencement of this Act, if the prize is—

(a) brought into or seized within the territory of India;

(b) brought into or seized within a locality in the temporary or permanent possession of, or occupied by, the Armed Forces of the Union; or

(c) appropriated for the use of the Central Government,

and is brought within the territorial jurisdiction of that Prize Court:

Provided that in the case of a Naval prize, the Prize Court shall have jurisdiction only if the prize captured or seized is brought to a port or place lying within the territorial jurisdiction of that Prize Court.

(2) Every Prize Court shall also have exclusive jurisdiction in respect of a prize in which the prize property—

(a) is lost or entirely destroyed; or

(b) cannot be brought in for adjudication because of its nature and condition.

(3) Without prejudice to the generality of the powers conferred by sub-section (1), a Prize Court shall take cognizance of and judicially proceed upon all manners of captures, seizures, prizes and reprisals of all ships, vessels, aircrafts and goods that are captured or seized, and shall hear and determine the same, and in accordance with this Act and rules made thereunder, shall adjudge and condemn all such ships, vessels, aircrafts and goods belonging to any country or State or the nationals, citizens or subjects thereof, as may be captured or seized as prize during a war or as a measure of reprisal during an armed conflict or in the exercise of the right of self-defence.

(4) Notwithstanding anything contained in this section, the Prize Court may in respect of any matter for which no provision or insufficient provision is made, by or under this Act, apply the principles of the International Law regulating that matter.

5. (1) Where proceedings are pending in any Prize Court against any ship, aircraft or goods, the Prize Court may, at any stage of the proceedings, on application being made by the proper officer of the Central Government and upon being satisfied that the proceedings so far as they relate to the ship, aircraft or goods, or any part thereof, would be more conveniently conducted in another Prize Court, make an order remitting the proceedings or the proceedings so far as they relate to the ship, aircraft or goods, or any part of the goods, as the case may be, to such other Prize Court.

Transfer
of cases.

(2) Where any proceedings have been so remitted to another Prize Court, that other Prize Court shall have the same jurisdiction to deal with the matter as if the subject matter of those proceedings had originally been seized within its jurisdiction or brought within its jurisdiction after capture or seizure, as the case may be, and any order made or action

taken in those proceedings before the order of remission shall be deemed to have been made or taken by or in that Court.

Appeals.

6. (1) Any person aggrieved by an order or decree of the Prize Court may prefer an appeal to the Central Government within a period of ninety days from the date on which such order or decree has been made.

(2) The provisions of sections 5 and 12 of the Limitation Act, 1963, shall so far as may be, apply for computation of the period specified in sub-section (1).

36 of 1963.

General powers of Prize Courts.

7. (1) A Prize Court shall, for the purposes of this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of persons and examining them on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) any other matter which may be prescribed by rules.

(2) Without prejudice to the provisions of sub-section (1), every Prize Court shall have the power to enforce—

(a) any order or decree of another Prize Court passed in a prize proceeding under this Act;

(b) any order of the Central Government passed in a prize appeal under section 6.

Procedure on capture of Prize

8. (1) Every ship and every aircraft taken as prize and brought into port or to a place within the jurisdiction of a Prize Court shall forthwith and without bulk broken, be delivered to the Marshal of the Court.

(2) If there is no such Marshal then the ship or aircraft shall be in like manner delivered to such person as the Central Government may appoint in this behalf.

(3) The ship or aircraft shall, subject to the orders of the Court, remain in the custody of the Marshal, or the person appointed under sub-section (2).

Ship and aircraft papers to be brought in Registry.

9. (1) The captors shall with all convenient speed after the ship or aircraft is brought into port or to a place within the jurisdiction of a Prize Court bring the ship papers or the aircraft papers, as the case may be, into the Registry of the Prize Court.

(2) The commanding officer or the captain of the capturing ship or aircraft or the commanding officer of the capturing force, or any other officer or person seizing the ship or aircraft at any port or aerodrome or any officer designated by the commanding officer or his superior authority as a Prize Officer or such other officer or person who was present at the capture and saw the ship papers or aircraft papers delivered

up or found on board shall make oath that they are brought in as they were taken without fraud, addition, or subduction or alteration or else shall account on oath to the satisfaction of the Prize Court for the absence or altered condition of the ship papers or aircraft papers or any of them.

(3) Where no ship papers or aircraft papers are delivered up or found on board the captured ship or captured aircraft, the commanding officer or the captain of the capturing ship or aircraft or the commanding officer of the capturing force or any other officer or person seizing the ship or aircraft or the Prize Officer or such other officer or person who was present at the capture shall make an oath to that effect.

10. The provisions of sections 8 and 9 relating to ships and aircraft shall, so far as may be, extend and apply to goods taken as prize on board a ship or aircraft and the Prize Court may direct such goods to be unladen, inventoried and warehoused. Goods.

11. Where a ship of a foreign State passing the seas or an aircraft of a foreign State, laden with military or victualling stores intended to be carried to any place under the control of an enemy is taken in circumstances making it subject to adjudication as prize, and is brought under the control of the Government of India, and the purchase of such stores for the service of the Central Government appears to the said Government expedient without the condemnation thereof in a Prize Court, then the Central Government may purchase on account or for the service of the Central Government all or any of such stores. Pre-emption.

12. Nothing in this Act shall apply to a ship-of-war or military aircraft of the enemy or any other ship or aircraft owned by the enemy whether or not registered in the territory of the enemy or goods carried therein and no proceedings of prize shall be necessary for the condemnation of such ship-of-war or military aircraft or other ship or aircraft or goods carried therein. Prize proceedings not to apply to enemy warships and military aircraft.

13. (1) Subject to the provisions of sub-section (2), all prizes captured by the Armed Forces of the Union and condemned where necessary in the Prize Court shall be the exclusive property of the Central Government. Capture to belong to Central Government.

(2) The Central Government may, at its discretion, out of the proceeds of the prize, make a grant of such sum of money as it deems fit to the benevolent funds of the Armed Forces of the Union.

14. (1) Where any ship or goods or aircraft belonging to an Indian citizen, after being taken as prize by the enemy is or are retaken from the enemy, the same shall be restored by decree of a Prize Court to the owner on his paying to the Central Government as prize salvage one-eighth part of the value of the prize to be decreed and ascertained by the Prize Court or such sum not exceeding one-eighth part of the estimated value of the prize as may be agreed upon between the owner and the Central Government and approved by the order of the Prize Court: Prize salvage.

Provided that where the recapture is made in the circumstances of special difficulty or danger, the Prize Court may if it thinks fit award to the Central Government as prize salvage a larger part than one-eighth but not exceeding in any case one-fourth part of the value of the prize:

Provided further that where a ship or aircraft after being so taken is set forth or used by the enemy as a ship-of-war or military aircraft, the aforesaid provision for restitution shall not apply and subject to such compensation to the owner as the Prize Court may determine, the ownership of such ship or aircraft shall vest in the Central Government.

(2) Where a ship belonging to any Indian citizen, after being taken as prize, is retaken from the enemy, such ship may, with the consent of the recaptors, prosecute her voyage and it will not be necessary for the Central Government to proceed to adjudication till her return to a port in India.

(3) The master or owner of the ship or his agent may, with the consent of the Central Government, unload and dispose of the goods on board the ship before adjudication.

(4) In case the ship does not return within six months to a port in India, the Central Government may nevertheless institute proceedings against the ship or goods in a Prize Court and the Prize Court may thereupon award prize salvage as aforesaid and may enforce payment thereof.

(5) The provisions of sub-sections (2), (3) and (4) shall *mutatis mutandis* apply also to an aircraft belonging to any Indian citizen which, after being taken as prize, is retaken from the enemy.

Offences in respect of prize.

15. Every person who is guilty of a prize offence, that is to say, an offence which if committed by a person subject to naval law would be punishable under section 63, section 64, section 65, section 66 or section 67 of the Navy Act, 1957, shall be punished with imprisonment which may extend to two years or with fine or both.

62 of 1957.

Indemnity against legal proceedings.

16. (1) Notwithstanding anything contained in any other law for the time being in force, no suit, prosecution or other legal proceedings shall lie against any officer of the Armed Forces of the Union or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceedings shall lie against the Central Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Power to make rules.

17. (1) The Central Government may, by notification in the Official Gazette, make rules for regulating the practice and procedure of a Prize Court and for generally carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the institution of cases, issue and service of writs, summons and other processes, and entering appearance and making of claims;

(b) affidavits concerning ship papers or aircraft papers and other affidavits to be or which may be made in a Prize Court or for the purpose of proceedings in a Prize Court;

(c) pleadings, particulars, discovery and inspection of documents and facts, evidence and hearing;

(d) issue of warrants for arrest of prize, and detention of prize;

(e) sale, appraisement, safe custody and inspection of prize;

(f) bail and release;

(g) requisition by Central Government of ships, aircraft or goods in the custody of a Prize Court;

(h) appointment of assessors and their fees;

(i) enforcement and execution of decrees and orders;

(j) stay of proceedings;

(k) costs of or incidental to any proceedings in the Prize Court and as to the fees to be charged in respect of proceedings therein and as to the taking of security of costs;

(l) procedure for hearing appeals and other matters pertaining to appeals;

(m) appointment, duties and conduct of the officers of a Prize Court and costs, charges and expenses to be allowed to petitioners therein;

(n) the manner in which and the conditions subject to which the right of visit, search, detention or capture of any ship or aircraft or goods thereon may be exercised and the penalty for impeding the exercise of any such right;

(o) the manner in which any such ship or aircraft or goods seized by or under the authority of any officer of the Armed Forces of the Union shall be kept in custody or disposed of;

(p) the conditions for declaring any ship or aircraft or cargo thereon as hostile and for condemnation thereof;

(q) the manner in which a ship or aircraft recaptured from the enemy may be disposed of;

(r) the conditions subject to which a right of unhindered passage may be allowed to a ship or aircraft within the territory of India on the outbreak of hostilities or an armed conflict on the basis of reciprocity;

(s) any other matter which may be, or is required to be, prescribed by rules.

(3) All rules made under this section shall be laid, as soon as may be, after they are made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which they are so laid or the session immediately following, both Houses agree in making any modification in the rules or both Houses agree that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under those rules.

Dissolu-
tion of
Prize
Courts.

18. The Central Government may at any time when there is no prize proceeding pending before a Prize Court dissolve that Prize Court, and make such further orders as to the custody of the records of that Court as may be considered necessary.

Repeals.

19. The Naval Prize Act, 1864, the Naval Agency and Distribution Act, 1864, the Prize Courts Act, 1894, the Prize Courts Procedure Act, 1914, the Prize Courts Act, 1915, the Naval Prize Act, 1918, the Prize Act, 1939, in so far as they apply in India are hereby repealed.

Savings.

20. Nothing in this Act shall—

(a) give to the officers and seamen of the Indian Naval ships or officers and airmen of the Indian Military aircraft or to any other person concerned in the capture of the prize any right or claim in or to any ships, aircraft or goods taken as prize or the proceeds thereof; or

(b) affect the operation of any existing treaty or convention with any foreign State; or

(c) take away or abridge the powers of the Central Government to enter into any treaty or convention with any foreign State containing any stipulation that the Central Government may deem appropriate concerning any matter to which this Act relates.

STATEMENT OF OBJECTS AND REASONS

The term 'prize' is applied to a ship or goods captured by the maritime forces of a belligerent at sea or seized in a port. The term can also be extended to aircraft and goods carried therein.

2. The universally accepted principle is that a prize has to be adjudicated and thereafter either released or condemned by the sentence of a Prize Court. Such a sentence vests the property in the captor and constitutes international title to the property.

3. In India, the High Courts at Madras, Bombay and Calcutta having Admiralty jurisdiction under the Letters Patent of 1862 had been declared Prize Courts by the Naval Prize Act, 1864 and had to be commissioned in accordance with the procedure prescribed in the Prize Courts Act, 1894 before they could function as Prize Courts. The procedure laid down for the issue of a commission and functioning of the Court is inappropriate and unworkable. At the same time, it is desirable that the release or appropriation of prize is carried out properly. It is, therefore, considered necessary to enact a prize law of our own. The emergency makes the passing of this legislation a matter of utmost urgency.

4. The Bill is designed to achieve the objectives mentioned above. The Bill *inter alia* provides adjudication of cases by Prize Courts consisting of one or more persons who will be citizens of India, and are qualified to be appointed as Judge of a High Court. The Bill also provides that an appeal from the Prize Court would lie to the Central Government.

NEW DELHI;

The 12th December, 1971.

JAGJIVAN RAM.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government may by notification constitute from time to time a Prize Court consisting of one or more members to exercise the powers and discharge the functions conferred on the Prize Court. It also provides that a member of the Prize Court would be a person, who has been or is qualified to be appointed as Judge of a High Court. Likewise clause 8 envisages appointment of a Marshal and clause 9 setting up of a Registry of the Prize Court.

2. It is intended to set up Prize Courts at Bombay, Calcutta and Visakhapatnam. The Prize Courts would be constituted by a single member and are expected to function about six months.

3. As a result of the above measures, it is anticipated that recurring expenditure of Rs. 2 lakhs approximately would be incurred from the Consolidated Fund of India. The Bill, if enacted would not involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for regulating the practice and procedure of a Prize Court and for generally carrying out the purposes of this Act as laid down in the said clause.

The delegation of powers is for regulating procedural matters and is of a normal character. To deal with the present Emergency, the Central Government should have sufficient powers to take such action as may be necessary or expedient and clothe itself adequately with legal authority to take such measures.

The delegation of legislative power is of a normal character during the period of Emergency.

S. L. SHAKDHER

Secretary.

